

PATENT

U.S. Appln. Ser. No.: 09/410,484
Attorney Docket No. NATNUT-03972

REMARKS

Claims 1-3, 7, and 9 are pending and under examination. The Applicants appreciatively note the Examiner's withdrawal of the obviousness rejection under the Langer and Udell references. In removing this rejection, the Examiner has indicated that the claims are free of the prior art.

The Examiner now rejects claims 1-3, 7, and 9 under 35 U.S.C. §112, first paragraph, as allegedly not being enabled. In particular, the Examiner argues that "Applicants have provided no support in the specification for the phrase 'independent of weight.'" (Final Office Action, *p.* 2). The Applicants must respectfully disagree.

In their response to the June 19, 2002, Office Action, the Applicants amended pending claim 1 to recite in pertinent part "A method of treating hypertension in humans, independent of weight loss," Thus introducing the phrase in question to claim 1. The Applicants entered this amendment after Helen Nguyen, the former Examiner of record, indicated that doing so would move the case to allowance. (*See, p.* 3, June 19, 2002, Office Action). Note however, that the Applicants amended claim 1 "in order to further their business interests and the prosecution of the present application in a manner consistent with the Patent Business Goals (PBG),¹ and not in acquiescence to the Examiner's arguments and while reserving the right to prosecute the original (or similar) claims in the future." (*See, Applicants' Response* mailed September 19, 2002).

Prior to entering this amendment, the Applicants repeatedly requested that Examiner Nguyen consider and accord due weight to the Declaration of Drs. Dong and Ip, wherein the doctors stated that in their opinion "[t]he [Langer and Udell] references do not provide any teaching or suggestion of treating hypertension with CLA. . . . Our own research conducted after the filing of the above referenced application with materials provided by the applicants, indicates that the effect of CLA on blood pressure most likely occurs through the regulation of key enzymes." (Declaration of Drs. Dong and Ip, Appendix 2, Applicants' Response mailed February 4, 2002). In their Declaration, Drs. Dong and Ip demonstrated that the hypertension reducing affect of CLA is NOT due to weight loss as hypothesized by Examiner Nguyen, but

¹ 65 Fed. Reg. 54603 (September 8, 2000).

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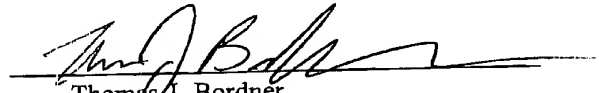
instead is likely due to the action of CLA on genes know to be involved in hypertension, including those encoding angiotensin, angiotensin converting enzyme, angiotensin I receptor, angiotensin II receptor, endothelin converting enzyme, and ET-B endothelin receptor.

Nonetheless, since the Applicants believe that the pending claims are free of the prior art and otherwise meet all requirements for patentability, the term "independent of weight loss" has been removed from pending claim 1. Applicants note that this amendment has been made solely for the purpose of advancing the prosecution of the present application and not in acquiescence to the Examiner's arguments. The Applicants specifically reserve the right to prosecute the original (or similar) claims in the future. Support for this amendment is found throughout the specification and the claims as originally filed.

C O N C L U S I O N

It is respectfully submitted that the invention as claimed fully meets all requirements for patentability and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

Dated: February 27, 2003


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Appendix 1**In The Claims:**

Please amend claim 1 as follows:

1. (Twice Amended) A method of treating hypertension in humans[, independent of weight loss,] comprising:
 - a) providing a subject and a composition comprising a safe and effective amount conjugated linoleic acid; and
 - b) administering said conjugated linoleic acid composition to said subject under conditions such that blood pressure of said subjects is reduced.